Docket No.: 001800-68

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	)	Confirmation No. 3588
Stefan Hofmair et al.	)	
Serial No. 10/581,482	)	Examiner: Peter Y Choi
Filed: March 21, 2007	)	Group Art Unit: 1794
International Filing Date: November 24, 2004	)	
For: TEXTILE LABEL AND METHOD FOR THE PRODUCTION THEREOF	)	
	)	Date: April 13, 2009

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In the Election Requirement dated March 12, 2009 (hereinafter, "the Requirement"), section 1 on page 2 requires Applicants to elect between Invention Group I (claims 1-16) drawn to a textile label, and Invention Group II (claims 17-24) drawn to a method of manufacturing a textile label. Applicants hereby **provisionally** elect, **with traverse**, "Invention Group I" drawn to a textile label, with claims 1-16 readable thereon.

Section 2 of the Requirement also requires an election of a single species from among "Species Group I" and "Species Group II." In reply, Applicants hereby **provisionally** elect, **with traverse**, "Species I" from "Species Group I": "wherein the additional textile layer consists of an upper label." Additionally, Applicants hereby **provisionally** elect, **with traverse**, "Species I" from "Species Group II": "wherein the region of the upper label that protrudes over the base layer is sewn to a garment." It is respectfully submitted that at least Invention Group I claims 1-13 and 16 are readable on the provisionally elected Group I Species and Group II Species.

In section 1, the Examiner indicates that Invention Group I and Invention Group II "are not so linked as to form a single general inventive concept under PCT Rule 13.1." However, the Examiner fails to provide any reasons or explanation whatsoever as to why the Invention Group I and the Invention Group II, as characterized in the Requirement, lack unity

of invention. Furthermore, because this application was filed in the United States as a national stage entry of an original Patent Cooperation Treaty (PCT) application under 35 U.S.C. 371, the unity of invention must be judged according to 37 C.F.R. § 1.499, which makes reference to 37 C.F.R. § 1.475. Rule 1.475(b)(1) explains that a single application can include claims to different categories like a product and a process especially adapted for the manufacture of the product and still be considered to have unity of invention. It is respectfully submitted that the Invention Group I and Invention Group II meet this criteria, and thus all pending claims should be considered to have unity of invention.

Finally, it is to be noted that the Examiner's statement regarding lack of unity among the Invention Group I and Invention Group II is merely conclusory, and hence believed improper on this basis alone. Otherwise, an examiner would be permitted to make arbitrary, bald allegations demanding election, which is clearly not within the procedures set forth in Section 1850 of the MPEP, much less PCT Rule 13 and 37 C.F.R. 1.475.

For all the above reasons, the Examiner is requested to withdraw the election requirement and examine all pending claims.

Respectfully submitted,

/John F. Guay, Reg. No. 47,248/
John F. Guay

Studebaker & Brackett PC
1890 Preston White Drive
Suite 105
Reston, Virginia 20191
(202) 510-9742 (direct)
(703) 390-9051 (main)
(703) 390-1277 (Fax)
john.guay@sbpatentlaw.com